

## Message Text

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ORIGIN PM-04

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----- 031530

R 300031Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY THE HAGUE

INFO SECDEF

CNO

CINCLANTFLT

USCINCEUR

CINCUSNAVEUR

USDAO THE HAGUE

C O N F I D E N T I A L STATE 207034

E.O. 11652: GDS

TAGS: MNUC, MARR, NL

SUBJECT: NORTHERN EUROPE OPERATIONS OF USS CALIFORNIA

REFS: A. USDAO THE HAGUE 261240Z AUG 75

B. THE HAGUE 4173 (171550Z AUG 75)

C. OPNAVINST 3128.3K

D. OPNAVINST C3000.5B

1. SUMMARY. THIS MESSAGE RESPONDS TO USDAO REQUEST CONTAINED IN REF A FOR INFORMATION CONCERNING BASIS ON CONFIDENTIAL

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WHICH NIMITZ TASK GROUP (TG 88.1) IS VISITING GERMANY AND PROVIDES GUIDANCE FOR CONTINUED DISCUSSIONS WITH GON ON VISIT OF US NPW TO NETHERLANDS. WHILE EMBASSY MAY CONTINUE TO DEAL WITH THIS ISSUE THROUGH USDAO/RNLN CHANNELS, GUI-

DANCE IN THIS CABLE IS PROVIDED TO FACILITATE OTHER CONTACTS WITH THE GON AS EMBASSY CONSIDERS APPROPRIATE. END SUMMARY.

2. REF A AMPLIFIES REF B CONCERNING REASONS FOR UNLIKELY APPROVAL OF PROPOSED VISIT OF CALIFORNIA TO NETHERLANDS AND REQUESTS INFORMATION ON AGREEMENT MADE WITH FRG TO ACCOMMODATE CURRENT VISIT OF TG 88.1 TO GERMANY.

3. IN ORDER TO PROPERLY RESPOND TO THE QUERY ON THE GERMAN VISIT AND TO PERMIT DISCUSSIONS WITH THE GON ABOUT US NPW VISITS, IT IS CONSIDERED IMPORTANT TO PROVIDE COMPLETE BACKGROUND CONCERNING THE BASIS ON WHICH OUR NPW VISIT FOREIGN PORTS. US NPW VISIT FOREIGN COUNTRIES SOLELY ON THE BASIS OF THE ASSURANCES CONTAINED IN THE "US STANDARD STATEMENT," WHICH IS QUOTED BELOW AND IS CLASSIFIED FOR OFFICIAL USE ONLY:

QUOTE. STATEMENT BY THE UNITED STATES GOVERNMENT ON OPERATION OF US NUCLEAR POWERED WARSHIPS IN FOREIGN PORTS

1. THE UNITED STATES GOVERNMENT CERTIFIES THAT REACTOR SAFETY ASPECTS OF DESIGN, CREW TRAINING AND OPERATING PROCEDURES OF THE NUCLEAR PROPULSION PLANTS OF UNITED STATES NUCLEAR POWERED WARSHIPS ARE REVIEWED BY THE UNITED STATES ATOMIC ENERGY COMMISSION AND THE STATUTORY ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, AND ARE AS DEFINED IN OFFICIALLY APPROVED MANUALS. THE UNITED STATES GOVERNMENT ALSO CERTIFIES THAT ALL SAFETY PRECAUTIONS AND PROCEDURES FOLLOWED IN CONNECTION WITH OPERATIONS IN UNITED STATES PORTS WILL BE STRICTLY OBSERVED IN FOREIGN PORTS.

2. IN CONNECTION WITH THE OPERATION OF UNITED STATES NUCLEAR POWERED WARSHIPS IN FOREIGN PORTS:

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A. NO EFFLUENT OR OTHER WASTE WILL BE DISCHARGED FROM THE SHIP WHICH WOULD CAUSE A MEASURABLE INCREASE IN THE GENERAL BACKGROUND RADIOACTIVITY OF THE ENVIRONMENT; WASTE DISPOSAL STANDARDS ARE CONSISTENT WITH THE RECOMMENDATIONS OF THE INTERNATIONAL COMMISSION ON RADIOLOGICAL PROTECTION.

B. DURING THE PERIOD OF THE VISIT, THE PERSONNEL OF THE NUCLEAR POWERED WARSHIP WILL BE RESPONSIBLE FOR RADIOLOGICAL CONTROL ON BOARD THE SHIP AND FOR ENVIRONMENTAL MONITORING IN ITS IMMEDIATE VICINITY. THE HOST GOVERNMENT MAY, OF COURSE, TAKE SUCH SURVEYS AS IT DESIRES, IN THE VICINITY OF THE WARSHIP TO ASSURE ITSELF

THAT THE VISITING SHIP IS NOT CREATING A RADIOACTIVE CONTAMINATION HAZARD.

C. THE APPROPRIATE AUTHORITIES OF THE HOST GOVERNMENT WILL BE NOTIFIED IMMEDIATELY IN THE EVENT OF AN ACCIDENT INVOLVING THE REACTOR OF THE WARSHIP DURING A PORT VISIT.

D. THE UNITED STATES GOVERNMENT ASSUMES THE RESPONSIBILITY TO SALVAGE OR OTHERWISE MAKE SAFE ANY UNITED STATES NUCLEAR POWERED WARSHIP WHICH MIGHT BE INCAPACITATED IN A FOREIGN PORT.

E. THE UNITED STATES GOVERNMENT DOES NOT MAKE TECHNICAL INFORMATION ON THE DESIGN OR OPERATION OF THE NUCLEAR POWERED WARSHIPS AVAILABLE TO HOST GOVERNMENTS IN CONNECTION WITH PORT ENTRY. THE UNITED STATES GOVERNMENT CANNOT, THEREFORE, PERMIT THE BOARDING OF ITS NUCLEAR POWERED WARSHIPS FOR THE PURPOSE OF OBTAINING TECHNICAL INFORMATION CONCERNING THEIR PROPULSION PLANTS OR OPERATING INSTRUCTIONS.

F. THE UNITED STATES NAVY WILL INFORM THE APPROPRIATE HOST GOVERNMENT AUTHORITIES AS EARLY AS PRACTICABLE, BUT NORMALLY AT LEAST 24 HOURS IN ADVANCE, AS TO THE ESTIMATED TIME OF ARRIVAL AND PURSUANT TO PRIOR CONSULTATION WITH THE HOST GOVERNMENTS, THE INTENDED LOCATION OF MOORING OR ANCHORING OF ITS NUCLEAR POWERED WARSHIPS.

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G. THE UNITED STATES WILL, OF COURSE, WELCOME THE CUSTOMARY PROTOCOL VISITS TO ITS NUCLEAR POWERED WARSHIPS BY REPRESENTATIVES OF THE HOST GOVERNMENT.

3. CLAIMS ARISING OUT OF A NUCLEAR INCIDENT INVOLVING A VISITING NUCLEAR POWERED WARSHIP WILL BE DEALT WITH THROUGH DIPLOMATIC CHANNELS IN ACCORDANCE WITH CUSTOMARY PROCEDURES FOR THE SETTLEMENT OF INTERNATIONAL CLAIMS UNDER GENERALLY ACCEPTED PRINCIPLES OF LAW AND EQUITY. END QUOTE.

4. CONCERNING THE ISSUANCE OF THE US STANDARD STATEMENT TO FOREIGN COUNTRIES THE FOLLOWING POLICY PERTAINS:

A. AS A MATTER OF CAREFULLY CONSIDERED POLICY, USG VIEWS NPW AND CONVENTIONALLY POWERED WARSHIPS IN IDENTICAL LIGHT AND OUR APPROACH WITH RESPECT TO NPW PORT ENTRY TO HOST COUNTRIES IS TO TREAT NUCLEAR POWERED SHIPS IN THE SAME LOW KEY MANNER AS CONVENTIONALLY POWERED SHIPS. ACTING IAW DIPLOMATIC MISSION PROCEDURES, NAVAL OR DEFENSE ATTACHE WOULD SUBMIT A VISIT CLEARANCE REQUEST FOR AN NPW THROUGH STANDARD CHANNELS. IF HOST

GOVERNMENT INDICATES ACCEPTANCE, VISIT PROCEEDS WITHOUT ANY OTHER DIPLOMATIC ACTION.

B. IN SOME CASES, HOWEVER, HOST COUNTRIES VIEW NPW VISITS AS SPECIAL CASES (THIS OBVIOUSLY IS THE CASE WITH GON). SUCH A REACTION USUALLY COMES FROM COUNTRIES WITH A FAIR DEGREE OF NUCLEAR SOPHISTICATION OR WITH AN INTERNAL POLITICAL PROBLEM WHICH THEY BELIEVE COULD BE EXACERBATED BY AN NPW VISIT. TYPICAL ISSUES RAISED IN SUCH CASES ARE HOST COUNTRY REQUESTS FOR US TECHNICAL INFORMATION ON NUCLEAR PROPULSION PLANTS OR QUESTIONS ABOUT REACTOR SAFETY AND REACTOR ACCIDENT LIABILITY AND INDEMNITY. TO ANSWER QUESTIONS SUCH AS THESE, US PROVIDES THE HOST COUNTRY WITH THE "STANDARD STATEMENT." AS CAN BE SEEN, THIS "STANDARD STATEMENT" CONTAINS COMPREHENSIVE UNILATERAL ASSURANCES WITH RESPECT TO REACTOR SAFETY, NPW RADIOLOGICAL CONTROLS, CREW TRAINING, OPERATING PROCEDURES AND THE HANDLING OF CLAIMS IN THE UNLIKELY EVENT OF A REACTOR ACCIDENT. IT ALSO NOTES  
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THAT FOR REASONS OF MILITARY SECURITY, THE US DOES NOT PROVIDE FOREIGN GOVERNMENTS WITH TECHNICAL INFORMATION ON THE DESIGN OR OPERATIONS OF US NPW. THE US STANDARD STATEMENT IS A UNILATERAL DOCUMENT AND NOT SUBJECT TO NEGOTIATION.

C. THE US DOES NOT AS A MATTER OF POLICY NEGOTIATE BILATERAL AGREEMENTS REGARDING CASUAL PORT VISITS OF NAVAL SHIPS, CONVENTIONAL OR NUCLEAR POWERED. THIS POLICY IS TRADITIONAL AND WIDELY PRACTICED BY OTHER MARITIME NATIONS. TO DEPART FROM THIS PRACTICE FOR NPWS WOULD UNDERCUT THE STANDARD STATEMENT APPROACH AND LEAD TO THE DEVELOPMENT OF A PATCHWORK SYSTEM OF DIFFERING AGREEMENTS AND CONTROLS OVER SHIP VISITS THAT WOULD ARTIFICALLY FRAGMENT US NAVAL FORCES INTO NUCLEAR AND CONVENTIONAL COMPONENTS AND RESTRICT FLEET OPERATIONS.

D. THE UK FOLLOWS IDENTICAL APPROACH FOR PORT ENTRY OF THEIR NPW USING A UK STANDARD STATEMENT WHICH READS VIRTUALLY THE SAME AS THE US STANDARD STATEMENT. SUBSTANTIVELY THEY ARE THE SAME IN ALL RESPECTS. THE WORDS CITED IN REF A AS PART OF THE UK/FRG BILATERAL AGREEMENT FOR THE 1965 DREADNOUGHT VISIT ARE TAKEN FROM THE UK STANDARD STATEMENT AND ARE ESSENTIALLY THE SAME AS PARA 1 AND 3 OF THE US STANDARD STATEMENT CITED ABOVE. WE SUSPECT THAT RNLN IS INTERPRETING THAT UK PROVISION OF THEIR STANDARD STATEMENT AND GON ACCEPTANCE OF IT CONSTITUTED A BILATERAL AGREEMENT. THIS OF COURSE IS NOT THE CASE AS THE STANDARD STATEMENT IS NOT A DOCUMENT BOTH PARTIES SIGN.

E. IN ADDITION TO THE STANDARD STATEMENT ASSURANCES THE US CONGRESS HAS RECENTLY ENACTED LEGISLATION (PUBLIC LAW 93-513) WHICH EXPRESSES US POLICY THAT THE VALIDITY (OR MERIT) OF ANY CLAIM ARISING OUT OF AN NPW REACTOR INCIDENT WILL BE DECIDED BY THE US ON THE BASIS OF ABSOLUTE (NO-FAULT) LIABILITY. THIS PROVISION IS NOW IN EFFECT AND APPLIES TO ANY COUNTRY VISITED BY US NPWS EVEN THOUGH THE HOST COUNTRY MAY NOT HAVE IN EXISTENCE ANY RELEVANT LEGISLATION ON THE SUBJECT. WE HAVE FORMALLY ADVISED SEVERAL COUNTRIES OF THE EXISTENCE OF THIS NEW PROVISION  
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BUT ONLY IN THOSE CASES WHERE REACTOR INCIDENT LIABILITY HAS BEEN AN ISSUE. COPIES OF PL 93-513 AND OF THE REPORT ON PL 93-513 BY THE JOINT CONGRESSIONAL COMMITTEE ON ATOMIC ENERGY ARE BEING FORWARDED TO ALUSNA BY SEPARATE LETTER.

5. FYI. IN ADDITION TO THE DIPLOMATIC CLEARANCE REQUIREMENT FOR VISITS OF ALL US WARSHIPS TO FOREIGN COUNTRIES AS DISCUSSED IN REF C, REF D SPECIFIES THAT CNO CONDUCT A REACTOR SAFEGUARDS EVALUATION FOR AN NPW VISIT TO A PORT OR POPULATED AREA. THE ENTIRE REACTOR SAFEGUARDS PROCESS IS A CLASSIFIED INTERNAL US GOVERNMENT PROCEDURE WHICH HAS BEEN USED OVER THE YEARS TO INSURE THAT ONLY THE MOST ACCEPTABLE BERTHS, FOREIGN OR DOMESTIC, ARE USED COMMENSURATE WITH THE MILITARY REQUIREMENT FOR NPW VISITS. ACCORDINGLY, THIS PROCESS IS NOFORN, CONFIDENTIAL RESTRICTED DATA, AND CANNOT BE DISCUSSED IN ANY MANNER WITH REPRESENTATIVES OF FOREIGN COUNTRIES. ONCE BERTHS ARE CLEARED BY CNO FOR A PARTICULAR VISIT, THE NECESSARY COORDINATION CAN PROCEED BETWEEN USDAO AND HOST COUNTRY TO INSURE THAT ONE OF THE CLEARED LOCATIONS WILL BE AVAILABLE. SHOULD THE HOST COUNTRY DESIRE USE OF A BERTH WHICH DOES NOT HAVE A REACTOR SAFEGUARDS CLEARANCE, USDAO SHOULD INFORM SOONEST SO THAT IT CAN BE DETERMINED IF A REACTOR SAFEGUARDS CLEARANCE CAN BE GRANTED FOR THE NEW LOCATION. SUCH COORDINATION MUST BE CARRIED OUT WITHOUT INFORMING HOST COUNTRY OF THE REACTOR SAFEGUARDS CLEARANCE PREREQUISITE OR THE FACT THAT A GIVEN BERTH CANNOT BE USED BY US NPW OWING TO LACK OF A SATISFACTORY SAFEGUARDS CLEARANCE SHOULD SUCH A SITUATION DEVELOP. THE FOLLOWING BERTHS IN ROTTERDAM HAVE BEEN EVALUATED AND A REACTOR SAFEGUARDS CLEARANCE CAN BE GRANTED BY CNO:

PIER 6 AND 7 WAALHAVEN - 51-53-30N, 004-26E END FYI

6. IN RESPONSE TO THE SPECIFIC RNLN QUERY, FRG HAS ACCEPTED NIMITZ TASK GROUP VISITS ON THE BASIS OF THE ASSURANCES CONTAINED IN THE US STANDARD STATEMENT. THEY ARE ALSO AWARE THAT THE LIABILITY PROVISIONS CONTAINED

IN PL 93-513 ARE IN EFFECT. THERE ARE NO BILATERAL  
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AGREEMENTS CONCERNING VISITS OF OUR NPW WITH GERMANY  
OR ANY COUNTRY AS PREVIOUSLY CITED.

7. EMBASSY SHOULD SEEK TO PERSUADE GON THAT IT SHOULD  
NOT ATTEMPT TO DEAL WITH NPW PORT ENTRY BY WAY OF A  
BILATERAL AGREEMENT. YOU ARE AUTHORIZED TO PRESENT THE  
US STANDARD STATEMENT AND, DRAWING ON GUIDANCE IN PARA 3  
AND 4, TO SEEK NETHERLANDS ACCEPTANCE OF NPW VISITS ON THE  
BASIS OF THE ASSURANCES IN THE STANDARD STATEMENT. YOU  
MAY EMPHASIZE THE WORLD-WIDE CONSTANCY AND ACCEPTABILITY  
OF THIS APPROACH BY BOTH THE US AND THE UK AND THAT THE  
US OBVIOUSLY CANNOT DEVIATE FROM THIS APPROACH BECAUSE  
OUR NPW OPERATIONS IN EVERY OTHER COUNTRY WOULD BE  
JEOPARDIZED. TO DEAL WITH NETHERLANDS CONCERNS OVER NPW  
INCIDENT LIABILITY YOU ARE ALSO AUTHORIZED TO PROVIDE  
GON A COPY OF PUBLIC LAW 93-513 AND THE JOINT COMMITTEE  
REPORT WHICH SHOWS THAT THE US WILL SETTLE DAMAGES  
ARISING OUT OF AN NPW REACTOR ACCIDENT ON THE BASIS  
OF ABSOLUTE LIABILITY. AS TO THE ISSUE OF DUTCH JURIS-  
DICTION, WHERE CLAIMS REGARDING NPW REACTOR INCIDENTS  
ARE PROCESSED OR SETTLED EITHER ADMINISTRATIVELY OR  
JUDICIALLY BY THE GOVERNMENT OF THE NETHERLANDS, THE  
PROVISIONS OF THE NATO SOFA SHALL APPLY (THIS MEANS COST  
SHARING WILL APPLY). ALTERNATIVELY WHEN SUCH CLAIMS  
ARE HANDLED BY THE US THROUGH NAVY, DIPLOMATIC OR OTHER  
APPROPRIATE CHANNELS, THEY WILL BE SETTLED IN TOTAL BY  
THE UNITED STATES. INGERSOLL

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